

MGJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 40 of 2007
in
L.P.A.No.,26 of 2007

M/s Govinda Hotel ..Appellants

vs.

Dahisar Jyoti CHS Ltd. ..Respondents

Shri Shishir Joshi for appellants.

Shri L.C.Joshi for respondents.

**CORAM: S.B.MHASE &
Smt.NISHITA MHATRE JJ.
6th March 2007**

P.C.

1. Heard both sides.

2. Dispute No.211 of 2000 was filed in the 4th Cooperative Court, Mumbai by the appellants challenging the bills tendered by the respondent Society in respect of 8 galas. The said dispute was decided exparte on 24th April, 2003 and award was passed in favour of the appellants and thereby the respondents were prohibited from recovering the amount of the said bills. The respondents filed an application no.16 of 2004 for setting aside the said award passed in dispute no.211 of 2000. That application was rejected on 27th January, 2005. Being aggrieved and

dissatisfied with the rejection of the said application for setting aside the exparte award earlier passed appeal no.59 of 2005 was preferred before the Cooperative Appellate Court. The Cooperative Appellate Court after hearing both sides dismissed the said appeal on 21st July, 2005. Thereafter the respondents filed a review application no.2 of 2006 before the Cooperative Appellate Court which was dismissed on 21st August, 2006. These orders were challenged by filing writ petition No.8300 of 2006 wherein award was set aside and, therefore, the L.P.A. has been preferred. The facts are self explanatory. It is the contention of the respondents that the impugned order was passed on the basis of the concession given by the respondents. However, from the order we do not find that any concession was given by the appellants. Therefore, it is on the disputed area. We do not propose to go into this aspect at this stage. Under these circumstances, we find that it is proper to grant prayer (a) of the civil application. Therefore, Civil Application is disposed of in terms of prayer clause (a).

(Smt.NISHITA MHATRE J.)

(S.B.MHASE J.)